

HOUSE BILL 712

L6

2lr2636

By: **Delegate Carr**

Introduced and read first time: February 8, 2012

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Street Lighting – Purchase of Equipment by Local Government and Tariff**

3 FOR the purpose of requiring a local government to pay a certain electric company the
4 fair market value of certain street lighting equipment as determined by an
5 agreement between the local government and the electric company or as
6 determined in a condemnation proceeding; authorizing a local government to
7 include in a single petition of condemnation all street lighting equipment in its
8 jurisdiction that the local government seeks to acquire and that is owned by one
9 electric company; specifying certain factors to be considered in determining fair
10 market value of street lighting equipment under certain circumstances;
11 authorizing a local government that owns street lighting equipment to maintain
12 the equipment under certain circumstances; requiring certain electric
13 companies to provide a certain list of contractors and a certain training program
14 under certain circumstances; authorizing a local government to replace certain
15 lighting fixtures under certain circumstances; requiring certain electric
16 companies to revise its tariff schedule and provide a certain standard
17 methodology under certain circumstances; requiring certain electric companies
18 to install certain lighting fixtures under certain circumstances; requiring the
19 Public Service Commission to require each electric company to develop a tariff
20 for certain street lighting; requiring a certain tariff to include pole attachment
21 fees or agreements under certain circumstances; and generally relating to local
22 governments and the acquisition, maintenance, or replacement of street lighting
23 equipment and fixtures and related tariffs, fees, methodologies, and practices of
24 certain electric companies.

25 BY repealing and reenacting, with amendments,
26 Article 24 – Political Subdivisions – Miscellaneous Provisions
27 Section 5–101
28 Annotated Code of Maryland
29 (2011 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article 24 – Political Subdivisions – Miscellaneous Provisions
3 Section 5–102
4 Annotated Code of Maryland
5 (2011 Replacement Volume)

6 BY adding to
7 Article – Public Utilities
8 Section 4–210
9 Annotated Code of Maryland
10 (2010 Replacement Volume and 2011 Supplement)

11 BY repealing and reenacting, with amendments,
12 Article – Public Utilities
13 Section 7–305
14 Annotated Code of Maryland
15 (2010 Replacement Volume and 2011 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article 24 – Political Subdivisions – Miscellaneous Provisions**
19 **5–101.**

20 (a) In this section, “electric company” has the meaning stated in § 1–101 of
21 the Public Utilities Article.

22 (b) On written request by a local government, an electric company shall sell
23 to the local government some or all of the electric company’s existing street lighting
24 equipment that is located within the local jurisdiction.

25 (c) **(1)** If the local government purchases street lighting equipment from
26 an electric company, the local government shall pay to the electric company the fair
27 market value of the street lighting equipment **AS DETERMINED BY AN AGREEMENT**
28 **BETWEEN THE LOCAL GOVERNMENT AND THE ELECTRIC COMPANY OR AS**
29 **DETERMINED IN A CONDEMNATION PROCEEDING.**

30 **(2) A LOCAL GOVERNMENT MAY INCLUDE IN A SINGLE PETITION**
31 **FOR CONDEMNATION ALL STREET LIGHTING EQUIPMENT WITHIN ITS**
32 **JURISDICTION THAT:**

33 **(I) THE LOCAL GOVERNMENT SEEKS TO ACQUIRE; AND**

34 **(II) IS OWNED BY ONE ELECTRIC COMPANY.**

1 **(3) ON WRITTEN REQUEST BY A LOCAL GOVERNMENT, THE**
2 **PUBLIC SERVICE COMMISSION SHALL ACT AS THE AGENT OF THE LOCAL**
3 **GOVERNMENT IN A CONDEMNATION PROCEEDING UNDER THIS SECTION.**

4 **(4) IN DETERMINING FAIR MARKET VALUE, THE ELECTRIC**
5 **COMPANY AND THE LOCAL GOVERNMENT, OR THE TRIER OF FACT IN A**
6 **CONDEMNATION PROCEEDING, SHALL CONSIDER:**

7 **(I) THE AGE, CONDITION, TYPE, AND OPERABILITY OF THE**
8 **STREET LIGHTING EQUIPMENT;**

9 **(II) ANY PAST PAYMENT OR CONTRIBUTION BY THE LOCAL**
10 **GOVERNMENT TO THE ELECTRIC COMPANY FOR THE CONSTRUCTION OF THE**
11 **STREET LIGHTING EQUIPMENT AND OTHER TARIFF FEES PAID RELATED TO THE**
12 **RENTAL OR MAINTENANCE OF THE STREET LIGHTING EQUIPMENT;**

13 **(III) COMPARABLE SALES OR OTHER APPROPRIATE**
14 **INDICATION OF THE VALUE OF THE STREET LIGHTING EQUIPMENT;**

15 **(IV) ANY OBLIGATION BY THE LOCAL GOVERNMENT TO PAY**
16 **FOR THE MAINTENANCE OF THE STREET LIGHTING EQUIPMENT IF THE**
17 **OBLIGATION TO PAY FOR THE MAINTENANCE MAY NOT BE TERMINATED**
18 **WITHOUT GIVING AT LEAST 60 DAYS' NOTICE; AND**

19 **(V) THE EXPERT VALUATION ADVICE OF THE PUBLIC**
20 **SERVICE COMMISSION.**

21 **[(d)] (5) (I) A local government that [purchases the] ACQUIRES** street
22 **lighting equipment in accordance with [subsection (b) of] this section shall be**
23 **responsible for the maintenance of the street lighting equipment and may contract**
24 **with an outside entity for the maintenance of the street lighting equipment.**

25 **(II) IF A LOCAL GOVERNMENT ACQUIRES STREET LIGHTING**
26 **EQUIPMENT:**

27 **1. THE LOCAL GOVERNMENT SHALL ENSURE THAT**
28 **THE MAINTENANCE OF STREET LIGHTING EQUIPMENT IS PERFORMED IN**
29 **ACCORDANCE WITH APPROPRIATE ELECTRICAL STANDARDS OR ACCEPTED**
30 **INDUSTRY PRACTICES; AND**

31 **2. THE ELECTRIC COMPANY SHALL REVISE ITS**
32 **TARIFF SCHEDULE TO REMOVE MAINTENANCE AND RENTAL FEES AND**
33 **ASSOCIATED PROVISIONS FOR THE ACQUIRED STREET LIGHTING EQUIPMENT.**

1 **(D) (1) A LOCAL GOVERNMENT THAT OWNS STREET LIGHTING**
2 **EQUIPMENT MAY MAINTAIN ITS OWN STREET LIGHTING EQUIPMENT IF:**

3 **(I) THE EQUIPMENT HAS A FUSE KIT OR ANY OTHER MEANS**
4 **OF DISCONNECTING CONDUCTORS OF THE CIRCUIT OWNED BY THE LOCAL**
5 **GOVERNMENT FROM ITS SOURCE OF SUPPLY; AND**

6 **(II) APPROPRIATE ELECTRICAL SAFETY STANDARDS AND**
7 **ACCEPTED INDUSTRY PRACTICES ARE FOLLOWED.**

8 **(2) THE ELECTRIC COMPANY THAT PROVIDES ELECTRICITY TO**
9 **THE LOCAL GOVERNMENT FOR ITS STREET LIGHTING EQUIPMENT SHALL**
10 **PROVIDE:**

11 **(I) A LIST OF CONTRACTORS APPROVED BY THE ELECTRIC**
12 **COMPANY TO ALLOW THE LOCAL GOVERNMENT TO HIRE A CONTRACTOR**
13 **DIRECTLY; AND**

14 **(II) A TRAINING PROGRAM TO CERTIFY MAINTENANCE**
15 **PERSONNEL TO PERFORM THE MAINTENANCE.**

16 **(E) (1) A LOCAL GOVERNMENT MAY REPLACE LIGHTING FIXTURES IF**
17 **THE FIXTURES:**

18 **(I) COMPLY WITH APPROVED METHODS FOR THE**
19 **ELECTRICAL AND PHOTOMETRIC MEASUREMENTS OF SOLID-STATE LIGHTING**
20 **PRODUCTS (LM-79) AND MEASURING LUMEN MAINTENANCE (LM-80), AS**
21 **DETERMINED BY THE ILLUMINATING ENGINEERING SOCIETY OF NORTH**
22 **AMERICA;**

23 **(II) CONTAIN UL-APPROVED COMPONENTS; AND**

24 **(III) HAVE AN INGRESS PROTECTION (IP) RATING OF AT**
25 **LEAST IP66.**

26 **(2) IF A LOCAL GOVERNMENT REPLACES LIGHTING FIXTURES,**
27 **THE ELECTRIC COMPANY THAT SUPPLIES ELECTRICITY TO THE LOCAL**
28 **GOVERNMENT SHALL:**

29 **(I) REVISE ITS TARIFF SCHEDULE TO INCORPORATE**
30 **BILLING WATTAGE FOR NEW STREET LIGHTING INSTALLED BY THE LOCAL**
31 **GOVERNMENT AND TO PROVIDE AN OPTION FOR REMOVING MAINTENANCE FEES**

1 AND PROVISIONS ASSOCIATED WITH MAINTENANCE PROVIDED BY THE
2 ELECTRIC COMPANY; AND

3 (II) PROVIDE A STANDARD METHODOLOGY FOR APPROVING
4 THE BILLING WATTAGE FOR NEW STREET LIGHTING EQUIPMENT.

5 [(e)](F) (1) Any person who controls the right to use space on any pole,
6 lamppost, or other mounting surface previously used in the local jurisdiction by the
7 electric company for street lighting equipment shall allow a local government that has
8 purchased the street lighting equipment to assume the rights and obligations of the
9 electric company with respect to the space for the unexpired term of any lease or other
10 agreement under which the electric company used the space.

11 (2) Notwithstanding paragraph (1) of this subsection, the local
12 government may not restrict or prohibit universal access for electricity or any other
13 service by assuming the rights and obligations of an electric company as to space on
14 any pole, lamppost, or other mounting surface used for street lighting equipment.

15 (3) Any dispute between an electric company and a local government
16 arising under this subsection shall be submitted to the Public Service Commission for
17 resolution.

18 **5-102.**

19 (A) IN THIS SECTION, "ELECTRIC COMPANY" HAS THE MEANING STATED
20 IN § 1-101 OF THE PUBLIC UTILITIES ARTICLE.

21 (B) (1) ON WRITTEN REQUEST BY A LOCAL GOVERNMENT, AN
22 ELECTRIC COMPANY SHALL INSTALL LIGHT-EMITTING DIODE FIXTURES OR
23 FIXTURES THAT USE THE MOST CURRENT APPROVED TECHNOLOGY ON SOME OR
24 ALL OF THE ELECTRIC COMPANY'S EXISTING STREET LIGHTING EQUIPMENT
25 THAT IS LOCATED IN THE LOCAL JURISDICTION, IF THE REQUESTED FIXTURES:

26 (i) 1. COMPLY WITH APPROVED METHODS FOR THE
27 ELECTRICAL AND PHOTOMETRIC MEASUREMENTS OF SOLID-STATE LIGHTING
28 PRODUCTS (LM-79) AND MEASURING LUMEN MAINTENANCE (LM-80), AS
29 DETERMINED BY THE ILLUMINATING ENGINEERING SOCIETY OF NORTH
30 AMERICA;

31 2. CONTAIN UL-APPROVED COMPONENTS; AND

32 3. HAVE AN INGRESS PROTECTION (IP) RATING OF
33 AT LEAST IP66; OR

1 **(II) ARE APPROVED BY THE OWNER OF THE STREET**
2 **LIGHTING EQUIPMENT.**

3 **(2) FIXTURES THAT COMPLY WITH PARAGRAPH (1) OF THIS**
4 **SUBSECTION INCLUDE:**

5 **(I) COBRA HEAD;**

6 **(II) ACORN;**

7 **(III) TEAR DROP;**

8 **(IV) SHOE BOX;**

9 **(V) INNER HARBOR SUGAR CUBES;**

10 **(VI) VICTORIAN LANTERNS; OR**

11 **(VII) PMA.**

12 **(3) THE ELECTRIC COMPANY THAT INSTALLS FIXTURES UNDER**
13 **THIS SECTION SHALL:**

14 **(I) REVISE ITS TARIFF SCHEDULE TO:**

15 **1. PROVIDE FOR FEES FOR INSTALLING THE**
16 **FIXTURES BASED ON A TIME AND MATERIAL BASIS;**

17 **2. INCORPORATE BILLING WATTAGE FOR SELECTED**
18 **TECHNOLOGY; AND**

19 **3. PROVIDE AN OPTION FOR MAINTENANCE AND**
20 **RENTAL FEES AND ASSOCIATED PROVISIONS THAT REFLECT SELECTED**
21 **TECHNOLOGY; AND**

22 **(II) PROVIDE A STANDARD METHODOLOGY FOR APPROVING**
23 **THE BILLING WATTAGE FOR NEW STREET LIGHTING EQUIPMENT.**

24 **Article – Public Utilities**

25 **4–210.**

26 **(A) THE COMMISSION SHALL REQUIRE EACH ELECTRIC COMPANY TO**
27 **DEVELOP A TARIFF SCHEDULE FOR STREET LIGHTING WHEN THE STREET**

1 LIGHTING EQUIPMENT IS OWNED BY A LOCAL GOVERNMENT AND ATTACHED TO
2 UTILITY POLES OWNED BY A PUBLIC SERVICE COMPANY.

3 (B) A TARIFF ESTABLISHED UNDER THIS SECTION SHALL INCLUDE
4 POLE ATTACHMENT FEES OR AGREEMENTS IF THE FEES OR AGREEMENTS ARE
5 REQUIRED BY THE ELECTRIC COMPANY.

6 7-305.

7 (a) A gas company or electric company may bill its customers for gas,
8 electricity, or any other service it renders only on the basis of the net total cost of the
9 service under the applicable rate that is filed for that service.

10 (b) (1) The Commission may authorize a gas company or electric company
11 to apply an additional charge over the net total cost to any bill or part of a bill that is
12 not paid:

13 (i) within 20 days for a residential customer or residential
14 cooperative; or

15 (ii) within 15 days for any other customer.

16 (2) (i) The additional charge that is applied by a gas company or
17 electric company under this subsection may not exceed 5% of the net bill or part of the
18 bill.

19 (ii) Unless the Commission approves the imposition of different
20 charges on different classes of customers, any additional charges applied by a gas
21 company or electric company under this subsection shall be uniform for all customers.

22 (C) (1) IF AN ELECTRIC COMPANY BILLS A LOCAL GOVERNMENT FOR
23 REACTIVE MAINTENANCE OF STREET LIGHTING EQUIPMENT, THE ELECTRIC
24 COMPANY MAY BILL THE LOCAL GOVERNMENT ONLY ON THE BASIS OF TIME
25 SPENT AND MATERIALS USED BY THE ELECTRIC COMPANY IN PERFORMING THE
26 REACTIVE MAINTENANCE.

27 (2) THE TIME AND MATERIAL COST SHALL BE OUTLINED IN THE
28 TARIFF SCHEDULE.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 July 1, 2012.